

REMARKS

Claims 71-88 and 90-136 are pending in the application. New claims 100-136 are patterned after various original claims. No new matter has been added.

In the outstanding Office Action, a five-way restriction was made. The claims of Groups I, II and III have now been cancelled, making the restriction involving those claims moot. Applicants elect the claims of Group IV (claims 71-88) with traverse. The reason given for the restriction between Groups IV and V is that the claims in these groups are related but distinct. Further, the Office Action supported the position of distinctness by arguing that the claims do not encompass overlapping subject matter. However, it is clear that a chewing gum is one form of a confectionery (see claim 92). Thus the claims do cover overlapping subject matter, and restriction between claims 71 and 90 is improper.

Applicants have now added composition/product claims corresponding to the method claims 71-88 and 90-99. It is submitted that examination of these composition/product claims should be carried out at the same time as examination of the method claims. It is noted that the outstanding Office Action some product and process claims were restricted, but those claims have now been cancelled. If the Examiner believes that restriction between the new product claims and the original method claims may be proper, the Examiner is invited to telephone Applicants' attorney for an oral election.

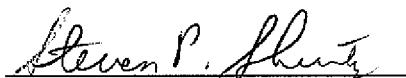
The Office Action also involves a species restriction, and asks that if Group IV is elected, Applicants must "define each of 1) a sweetener, 2) a medicament, 3) an active agent, 4) a cooling agent and 5) an oral health agent". This requirement is traversed. The apparent rational in the Office Action for why such a species election must be made is not germane. The last paragraph on page 9 and the language on page 10 of the Office Action appear to be copied and pasted from a restriction requirement in an unrelated application, since the present claims are not "directed to a method of treating respiratory complaints". Thus, since no proper rational has been given, it is not possible to comment on the basis for the species election.

Nonetheless, in an effort to move this case along, if a proper basis for an election of species is provided, then Applicants elect claims directed to a chewing gum composition that includes maltitol as the sweetener, phosphate as an optional

medicament, a vitamin as an optional active agent, menthyl glutarate as an optional cooling agent and an anti-microbial agent as an optional oral health agent. Claims 71-75, 78-85, and 87-88 are generic to the forgoing identified gum ingredients, and claims 77 and 86 cover this species. Further, new claims 100-103, 106-112, 114 and 116-117 are also generic, and claims 105, 113 and 155 cover the specified species.

As explained in the Amendment mailed April 25, 2006, Applicants have made a novel and non-obvious contribution to the art of chewing gum formulations and other confectionery using cardamom oil as an antibacterial agent. The claims at issue distinguish over the earlier cited references and are in condition for allowance. Accordingly, such allowance is now earnestly requested.

Respectfully submitted,



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